AB 2296 Consulting Group

Financial Assurances Phase II Rulemaking

California Integrated Waste Management Board
Workshop

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Integrated Waste

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Agenda

Management Board

- Introductions and General Overview
- Options to Address the May 2009 Board Direction for Phase II Regulations on Closed/Closing Facilities
 - Postclosure Maintenance Financial Assurances
 - Corrective Action Financial Assurances
- Lunch Break
- Continuity of Financial Assurances During Transfer of Ownership
- Wrap Up and Next Steps



Options to Address Postclosure Maintenance

Closing/Closed

- 1. 30X the PCM estimate
 - a) Same as Operating including criteria allowing step-down
 - b) Allow build up period for cash mechanisms
- 2. Not require increase (to 30X) above current demonstration level, no less than 15X
- 3. Perform Evaluation to set level (options to determine level?)
- 4. <u>Some stakeholders requested that the closing and closed operators be allowed to draw-down on a year-for-year basis to 15X</u>



1.a) Same as Operating – including criteria allowing step-down

Pros:

- More Protective
- Minimal System Impact
- Equity
- Ease of Administration
- May Be Eligible for Step-down

- Increased Early Defaults
- Increased Enforcement
- Inability for Some to Raise Additional Funds
- Fairness already closed and imposing additional financial demonstration requirement



1.a) Same as Operating – including criteria allowing step-down

Pros:

Cons:

- <u>Disproportionate effect on rate paying</u> <u>communities</u>
- Would cause additional rate increases
- <u>Ties up resources that could be used beneficially</u> <u>elsewhere*</u>

*

<u>CAW comment that beneficial use isn't certain</u> <u>Money might not go to alternatives</u> <u>Promotes continued subsidies to waste disposal</u>

5

1.b) Allow Build Up Period for Cash Mechanisms

Pros:

- Reduces Impact
- Flexibility
- Opportunity to Step-down
- Reduced Enforcement

- Equity for cash vs. non-cash mechanisms
- Not equitable to the rate paying community



2. Not require increase (to 30X) above current demonstration level, no less than 15X

Pros:

- Mitigates Impact on Individual Landfills
- Fairness
- More fair to rate paying community

Cons:

- Increase Exposure to State
- Equity for operating vs. closing/closed and for cash vs. noncash

7

3. Perform Evaluation to Set Level – Not Less Than 15X

Pros:

• Better Match Likelihood of Default and Level of Assurance

- High Transaction Costs for Operator and Board
- Criteria outside existing Mechanisms/program difficult to develop



Options to Address Corrective Action

Closing/Closed

- 1. Same as Active/Operating
 - a) Immediately
 - b) Allow Build Up Period
- 2. Original Phase II Proposal Broaden Use of Water Board Financial Assurance
- 3. Delay Effective Date For Final Cover Replacement
- 4. Site Specific Corrective Action Plan
- 5. Include Costs in Pooled Fund



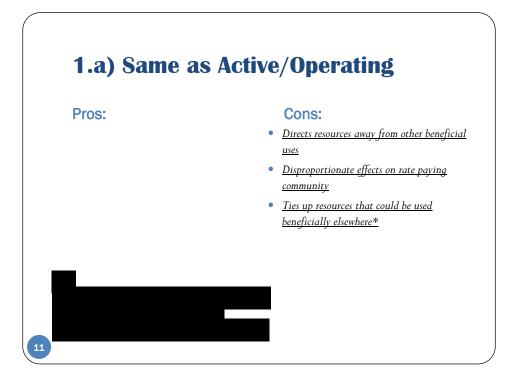
1.a) Same as Active/Operating

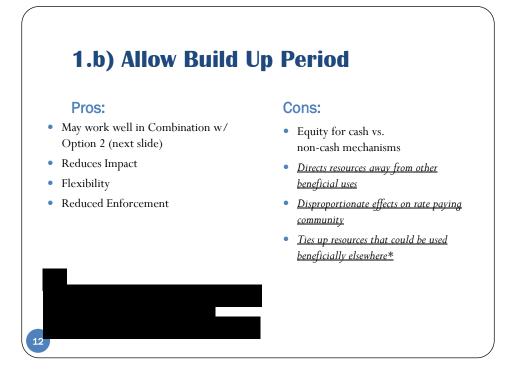
Pros:

- More Protective
- Minimal System Impact
- Equity
- Ease of Administration

- Increased Early Defaults
- Increased Enforcement
- Inability for Some to Raise Additional Funds
- Fairness already closed and imposing additional financial demonstration requirement







2. Original Phase II Proposal – Broaden Use of Water Board Financial Assurance

Pros:

- Simple to Implement
- Minimal Financial Impact
- Equity
- Fairness

Cons:

- Might not provide enough financial assurance to cover the exposure
- Doesn't address Major Maintenance

13

3. Delay Effective Date For Final Cover Replacement

Pros:

 Incentivizes Closing landfills to be certified Closed (SD-4.2)

Cons:

- Might not provide enough financial assurance to cover the exposure
- Doesn't address Major Maintenance

ndfills to comply with the cover ompliance with the original Phase II

proposal (using Water Board corrective action estimate for financial assurance purposes).



4. Site Specific Corrective Action Plan

Pros:

- Recognizes potential for Major Maintenance
- Fairness

Cons:

- Monetary Expense to Develop Plan
- Workload to Review Plans
- Equity Issue (unless also imposed on operating landfills)

15

5. Include Costs in Mandatory Pooled Fund(s)

Pros:

• Would reduce the amount required for individual financial assurances

Cons:

ullet There is no Pooled Fund(s) yet

- Pooled Fund(s)
 - Closed landfills allowed to count a year-for-year reduction now and draw-down to 15X
 - Operating landfills allowed to draw-down to 15X
- Spread costs across State
- Cover catastrophic failure across state at individual landfills
- Should cover currently closed landfills
- Introduces a moral hazard with less accountability for the individual landfill operator

Continuity of Financial Assurances During Transfer of Ownership

- Stay at current landfill financial assurance requirement
 - Pro -Would be useful (to the seller) with review of new owner by CIWMB
 - Con New owner could be mislead regarding ongoing costs.
- Automatically step-up to 30X
 - <u>Pro Would help protect the State</u>
 - Con Onerous requirement
- Alternative "X" level
 - 5X increments
 - Based on what criteria?
 - Pro Flexibility is good, especially with review by CIWMB

